



NCA 23-036

CLASSIFICATION: #14. CRIMES AND PUNISHMENTS

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 14, SUBCHAPTER 3, §1-309 ENTITLED "EXTRADITION OF DEFENDANTS SUBJECT TO OTHER JURISDICTION"

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. The decision of the United States Supreme Court in *McGirt v. Oklahoma*, No. 18-9526 (U.S.) and *Sharp v. Murphy*, No. 17-1107 (U.S.) (ratifying that the land within the 1866 borders of the Muscogee (Creek) Nation remains Indian Country today) has dramatically increased the case load upon the Muscogee (Creek) Nation District Court.

B. As the Nation exercises its criminal jurisdiction, circumstances occasionally arise where the Nation is contacted by a state, territory, or Indian Tribe (hereinafter a "demanding jurisdiction") about extraditing a person in the custody of the Nation back to the demanding jurisdiction to face prosecution.

C. Circumstances also occasionally arise where the Nation is made aware of a person in custody of a state, territory, or Indian Tribe and the Nation wishes to extradite the person back to the custody of the Nation to face prosecution.

D. To allow the Nation to extradite a person in its custody back to a demanding jurisdiction, there is a need to amend the Nation's Criminal Code to establish a protocol for extraditing a person from the Nation. Additionally, there is a need for a protocol when the Nation wishes to demand extradition of a person back to the Nation from a state, territory, or Indian Tribe to face prosecution.

SECTION TWO. PURPOSE. The purpose of this Act is to amend Title 14, § 1-309 to establish a protocol for extraditing a person from the Nation as well as a protocol for extraditing a person back to the Nation.

SECTION THREE. AMENDMENT. This amendment shall be codified in Title 14, §1-309, of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designed consistent with the format of the Code of Laws published in 2010 by West

Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws; and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval.

SECTION FOUR. AMENDMENT. MCNCA Title 14, § 1-309, is hereby amended to read as follows:

§ 1-309. Extradition of defendants subject to other jurisdiction

[Reserved pursuant to NCA 01-110, § 2, §209, approved July 6, 2001].

A. Extradition from the Muscogee (Creek) Nation. Whenever the Federal Government, a state, territory, or Indian Tribe formally demands a person as a fugitive from justice who is located within the exterior boundaries of the Muscogee (Creek) Nation Reservation or requests the Nation to hold a fugitive from justice who has been detained by the Nation based on a traffic stop or other similar situation where the fugitive has been identified, and produces a copy of an indictment, a valid warrant, or an affidavit made before a magistrate of the Federal Government or of any state, territory, or Indian Tribe, charging the person demanded with having committed a crime:

1. The Muscogee (Creek) Nation may detain and secure the person.
2. The detained person shall be promptly informed of:
 - a. the extradition request;
 - b. the underlying criminal charge; and
 - c. the detained person's right to legal counsel, and if the detained person obtains legal counsel for the purpose of suing out a writ of habeas corpus, then the person shall be given ample time to sue out such writ as determined by the Muscogee (Creek) Nation District Court.
3. The Muscogee (Creek) Nation shall notify the demanding jurisdiction, or the agent of such authority appointed to receive the person, and shall cause the person to be delivered to such agent when he shall appear. If no such agent appears or no response from the demanding jurisdiction is received within three (3) days from the time of the detainment, the person shall be discharged. The demanding jurisdiction may request additional time, but the person shall not be held by the Muscogee (Creek) Nation for more than five (5) days.
4. The demanding jurisdiction is responsible for transporting the person and all costs associated therewith and shall reimburse the detention facility directly for the costs of detention.
5. Any person who is located within the exterior boundaries of the Muscogee (Creek) Nation Reservation who is sought to be extradited

may waive all rights and proceedings to voluntarily return to the jurisdiction in which he is sought. Waiver of extradition shall be accomplished by the fugitive signing an affidavit which states the fugitive consents to return to the demanding jurisdiction, that he or she has been informed of all his or her rights available to him or her under this Section regarding the process to challenge the extradition, and that the fugitive understands the same and now wishes to make an intelligent waiver.

6. Nothing in this Section shall be deemed to constitute a waiver by the Muscogee (Creek) Nation of its right, power, or privilege to try such demanded person for an alleged offense committed within the Muscogee (Creek) Nation.

B. Extradition to the Muscogee (Creek) Nation.

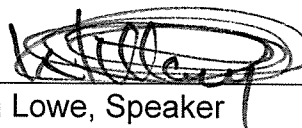
1. In all cases in which a charge of any offense is brought against a person who cannot be found in the Muscogee (Creek) Nation, the Muscogee (Creek) Nation may demand extradition of such person from the jurisdiction in which such person may be found.
2. When the Muscogee (Creek) Nation shall demand the surrender of a fugitive, the actual and necessary expenses to return the person to the Muscogee (Creek) Nation may be paid by the Muscogee (Creek) Nation.

C. Extradition Protocol. All formal demands for extradition made pursuant to § 1-309.A shall be directed to the Principal Chief. When demand shall be made upon the Principal Chief, he or she may request the Office of the Attorney General to investigate the demand for extradition and determine whether the fugitive from justice ought to be surrendered.

SECTION FIVE. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this 17th day of June, 2023.

IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



William Lowe, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **17th** day of **June, 2023** and that the above is in conformity with the provisions therein adopted by a vote of **15** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.

Alicia Stroble

Alicia Stroble, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 22nd day of June, 2023 to the above Law, **NCA 23-036** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

David W. Hill

David W. Hill, Principal Chief
Muscogee (Creek) Nation

